

that claim 1 recites surfactants but not antifoam agents. Therefore, the claimed subject matter may be realized regardless whether or not an antifoaming agent is used.

Examples 1, 6, 7 and 9 show a remarkable storage stability even though drastically different surfactants, such as nonionic or anionic surfactants, were used.

For the reasons set forth above, the Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §112, first paragraph.

The Office Action rejects, on page 3, claims 1-4 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,691,276 to Ito et al. (hereinafter "Ito"). Applicants respectfully traverse this rejection.

The Office Action asserts that Ito in col. 14, example 44 teaches quizalofop-p-ethyl. This assertion is incorrect. Instead, Ito discloses quizalofop-ethyl, *i.e.*, the racemate form of quizalofop-ethyl. Applicants attach an excerpt from "The Pesticide Manual" as further evidence that quizalofop-ethyl and quizalofop-p-ethyl are not identical.

Further, the Office Action concedes that Ito does not teach a ratio of beta-type crystal being 80% by weight or more, as positively recited in claim 1. However, the Office Action asserts that it is obvious that all crystal forms would work. This assertion is incorrect and ignores the criticality of the claimed feature that the ratio of beta-type crystal is 80% by weight or more. Specifically, as apparent from a comparison between examples 1-5 and comparative examples 1-4, compositions possessing the claimed feature show a remarkably good storage stability, even after storage at 50° Celsius for 30 days. On the contrary, the comparative examples show dramatically increased viscosity and volume medium diameter, *i.e.*, show poor storage stability after 30 days at 50° Celsius.

For at least the above reasons, Ito cannot reasonably be considered to teach, or to have suggested, the combinations of all of the features recited in at least independent claim 1. Further, claims 2-4 are also neither taught, nor would they have been suggested, by the

applied reference for at least the respective dependence of these claims on allowable independent claim 1, as well as for the separately patentable subject matter that each of these claims recites.

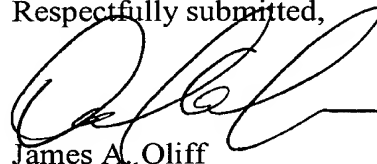
Accordingly, reconsideration and withdrawal of the rejection of the subject matter of claims 1-4 under 35 U.S.C. §103(a) as being unpatentable over the applied reference are respectfully requested.

The Office Action does not include an initialed copy of Form PTO-1449 filed with Applicants' Information Disclosure Statement on January 22, 2002. Applicants respectfully request that an initialed copy of the January 22, 2002 Form PTO-1449 be forwarded with the next Patent Office communication. A copy of the form is attached for the Examiner's convenience.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-4 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:DAT/jls

Attachment:

Excerpt from the Pesticide Manual
Form PTO-1449 Dated January 22, 2002
Petition for Extension of Time

Date: May 18, 2007

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